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NOTE BY THE SECRETARY-GENERAL

Addendum

The Secretary-General has the honour to transmit to the members of the Security Council the attached communication dated 11 October 1993, which he has received from the Director General of the International Atomic Energy Agency (IAEA).

Annex

Letter dated 11 October 1993 from the Director General of the International Atomic Energy Agency addressed to the Secretary-General

I refer to my letter of 16 September 1993 covering a report to the Security Council (S/26456) on the Agency's efforts to implement the Safeguard's Agreement between IAEA and the Democratic People's Republic of Korea pursuant to the Council's request in its resolution 825 (1993).

Please find attached an addendum to that report, covering recent developments. I should be grateful if the addendum could also be brought to the attention of the Security Council.

(Signed) Hans BLIX
Director General

Appendix

Addendum dated 11 October 1993 to the report by the Director General on the implementation of the Agreement between the Government of the Democratic People's Republic of Korea and the International Atomic Energy Agency for the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons

1. On 18 September 1993, the Minister for Atomic Energy, Mr. Choi, replied to the Director General's telex of 14 September, saying that, "so far the Democratic People's Republic of Korea has accepted the Agency's inspection ... in order to implement the policy commitment agreed between the Democratic People's Republic of Korea and the United States"; and also that in the "current extraordinary circumstances" in which the effectuation of the Democratic People's Republic of Korea's withdrawal from the Non-Proliferation Treaty has been suspended, it is "more than enough" to accept the Agency inspection for the purpose only of performing maintenance and replacement of the safeguards equipments. The Minister added that the scope of Agency inspections in the Democratic People's Republic of Korea would "depend on how the Agency's partiality and injustice would be resolved and how the further bilateral talks between the Democratic People's Republic of Korea and the United States would make progress". On consultations with the Agency, the Minister said that, although he had no objection to the Agency's suggestion of holding the next round of consultations in Vienna, it would be desirable that the next round be held in Pyongyang "because the next round of consultations is considered as a continuation of the consultations held in Pyongyang early in September".

2. The Director General replied to the Minister on 20 September, pointing out that the Minister's statements were "at great variance" with the Agency's views. The Director General said that, when the Democratic People's Republic of Korea suspended the "effectuation" of its withdrawal from the Non-Proliferation Treaty, its obligations as a party to the Treaty continued. Consequently, the Democratic People's Republic of Korea's Safeguards Agreement with the Agency remained fully operative in accordance with article 26 of that agreement, which provides that "this agreement shall remain in force as long as the Democratic People's Republic of Korea is party to the Treaty". The Director General said that it was on that basis alone that the Agency was both entitled and obliged to apply safeguards in the Democratic People's Republic of Korea and the Democratic People's Republic of Korea was obliged (under article 3 of the agreement) to cooperate with the Agency. The Safeguards Agreement had to be fully implemented. In that connection, it remained high priority for the Agency to resolve outstanding inconsistencies, which it was pursuing through consultations. However, the Agency's verification activities with regard to the Democratic People's Republic of Korea's declared nuclear material and facilities "must continue to be performed fully in accordance with the Safeguards Agreement". The inspections that took place in June and August "were limited in nature" and the Agency must now perform specific safeguards activities, already communicated in detail to the Democratic People's Republic of Korea, within a specific timeframe. The activities specified "must be viewed as an integral whole and can not be regarded as a menu to select from". In view of the timeframe within which the activities needed to be carried out, the Director

General said he "would appreciate receiving confirmation no later than Wednesday, 22 September, of your [Democratic People's Republic of Korea's] readiness to receive our inspection team to perform the specified activities". As for continuing consultations, the Director General noted that "all consultations are a continuing process" and suggested that the next consultations should take place in Vienna in connection with the Agency's 37th General Conference (27 September-1 October 1993). The Director General said that "if during these consultations, we can reach agreement on a specific agenda, including an agreement to discuss, in depth, ways and means to resolve inconsistencies", the Agency would be ready to send another consultation team to Pyongyang.

3. Mr. Choi replied to the Director General on 22 September saying that, in his view, "You [IAEA] must not unilaterally insist on our acceptance of inspection only, but rather propose appropriate ways and means to find a fair and root-out [sic] resolution to the nuclear issue". The Minister said it was already "a confirmed fact that the nuclear issue on the Korean Peninsula is a political issue generated by the United States that has continued its nuclear threat against the Democratic People's Republic of Korea". This had now led "to the ongoing process of the bilateral Democratic People's Republic of Korea/United States talks". The Minister added that the Democratic People's Republic of Korea currently found itself in a "unique and extraordinary situation under a temporary suspension of the effectuation of its announced withdrawal from the Nuclear Non-Proliferation Treaty". It followed that "issues related to the implementation of the Safeguards Agreement should be discussed seriously through consultations in a close context of the above-stated reality". On consultations with the Agency, the Minister said that the Democratic People's Republic of Korea agreed to the Agency's suggestion to hold the next round in Vienna. He suggested that "early October would be good for the proposed consultation" which "would address the issue of the Agency's partiality and injustice and 'inconsistencies' and inspection issue raised by the Agency". As to Agency inspections, Minister Choi said "we [Democratic People's Republic of Korea] are prepared to accept, at any time, further Agency inspection of such scope as the early August inspection: the maintenance and replacement of the safeguards equipment".

4. The Director General replied to the Minister on 22 September, saying that he welcomed the opportunity to hold consultations with the Democratic People's Republic of Korea in Vienna in early October and suggesting that they take place from 5 to 8 October, immediately after the Agency's General Conference. The Director General said that the secretariat would be ready to continue discussing the Democratic People's Republic of Korea's complaints about the Agency's "lack of impartiality" and how to resolve outstanding inconsistencies. He also said that "we [the secretariat] are aware that the Democratic People's Republic of Korea has been holding discussions with the United States on a number of political issues. However, the only legal basis and guidance for the relations between the Agency and the Democratic People's Republic of Korea is found in the Safeguard's Agreement." The Director General added that the Democratic People's Republic of Korea seemed to be suggesting that what it described as its "unique and extraordinary situation with regard to a temporary suspension of the effectuation of its withdrawal from the Non-Proliferation Treaty" meant that all issues relating to the implementation of the Safeguards Agreement were open and negotiable at consultations. In that connection, the Director General said

that, "a distinction must be drawn between two distinct matters" i.e., on the one hand, the Agency's request for additional information and visits to additional sites - special inspections - about which he was mandated by the Board and the Security Council to consult with the Democratic People's Republic of Korea and, on the other hand, the Agency's need to perform ad hoc and routine inspection activities "which have regard to [the Democratic People's Republic of Korea's] declared nuclear installations and material and which are of a kind that you [the Democratic People's Republic of Korea] have stated that you never objected to and which in fact, took place, without problems, until last spring". The Director General added that, as indicated previously, "unfulfilled inspection activities have been accumulating over time as a result of the limited activities we [IAEA] were enabled to perform in May and August and they have consequently become urgent or overdue according to our [Agency] standard requirements". If the specified inspection activities were not to begin on 27 September, the Democratic People's Republic of Korea "would be widening the area of non-compliance and the continuity of important safeguards data would be broken". Moreover, the IAEA secretariat "finds it hard to see why you [the Democratic People's Republic of Korea] should have any difficulty today in accepting inspections which you accepted early in the year". The Director General said that he hoped that the Democratic People's Republic of Korea would give, by return telex, an indication of its readiness to receive the Agency team "to perform the full specified inspection activities. This would allow me to dispatch the inspection team without further delay and with minimum damage to safeguards continuity."

5. Mr. Choi responded with a telex of 23 September saying that, according to news reports, "at the ongoing meeting of the IAEA Board of Governors, the United States and some other member States are circulating an unjust draft resolution to be adopted by the meeting with regard to our nuclear issue". That could be understood only as "a calculated action to artificially block our future consultations, while the Democratic People's Republic of Korea is negotiating with the Agency over the arrangements for the next round of bilateral consultation in a positive direction". This showed that the Agency "still does not intend to resolve the nuclear issue through consultation, but the Agency is again joining those countries hostile to the Democratic People's Republic of Korea in their political conspiracy". The Minister added that, if the Agency were "really serious" about holding consultations with the Democratic People's Republic of Korea, it "must immediately call off adoption of any unjust resolution". The Minister further stated that "if any unjust resolution is adopted ... it will entail serious political consequences; the Agency must no longer expect the agreed Vienna consultation and Agency's further inspection for the continuity of the so far maintained safeguards information and the Agency will be held totally responsible for the serious situation arising therefrom". Concluding, Mr. Choi said he again emphasized that "such position of ours fully accords with the nature of our politicized nuclear issue".

6. The Director General reported these developments to the Agency's Board of Governors during its scheduled meeting. In his address to the Board, the Director General stated that, as the Board was aware, it had all along been the secretariat's position that it was ready to consult with the Democratic People's Republic of Korea at any time to seek ways and means to resolve existing inconsistencies through access to additional information and locations. Furthermore, although the secretariat did not think that there were any valid

grounds for reproach, it had expressed its readiness to discuss with the Democratic People's Republic of Korea authorities such complaints as they should want to advance about the Agency's "partiality and injustice". Indeed, that issue had already been discussed extensively during the last round of consultations in Pyongyang. It was to be hoped that the next round of consultations would make progress on outstanding safeguards issues.

7. The Director General said that the Democratic People's Republic of Korea's positive attitude towards continuing consultations in the near future had not yet been matched in its approach to the Agency's request to conduct specified routine and ad hoc inspection activities. Indeed, the Democratic People's Republic of Korea seemed to take the view that all safeguards implementation matters were open for negotiation, an untenable position. The Democratic People's Republic of Korea was presently a party to the Non-Proliferation Treaty and, therefore, in accordance with article 26 of its Safeguards Agreement with the Agency, that agreement remained fully operative. It followed that the Agency had the right and obligation to implement the agreement fully, including carrying out ad hoc and routine inspections of the Democratic People's Republic of Korea's declared nuclear material and facilities.

8. The Director General stated further that the activities considered necessary for fulfilling the Agency's responsibilities under safeguards agreements were incorporated in the safeguards criteria, which it used for planning safeguards implementation activities in all States without exception. Those activities had to be performed impartially, systematically and in keeping with a schedule. The Director General gave examples to show why, as regards the Democratic People's Republic of Korea, the scheduled programme of inspection activities was either urgent or overdue.

9. The Director General emphasized that the activities which the Agency now needed to perform, and which had been specified in detail to the Democratic People's Republic of Korea, had to be viewed as an integral whole rather than a set of activities from which one could pick and choose. The Democratic People's Republic of Korea's suggestion was that activities should be limited to the maintenance of Agency cameras and the checking of seals, which would mean inspection in only two facilities. Such restrictions could not be accepted because, if the Agency was to depart from the systematic programme of activities which, in accordance with its standard requirements, it now needed to carry out with regard to the Democratic People's Republic of Korea's declared nuclear material and facilities, it would not be able to provide required assurances that even declared material and facilities in the Democratic People's Republic of Korea remained in peaceful use.

10. Concluding the consideration of its agenda item on the Democratic People's Republic of Korea on 23 September, the Board of Governors:

(a) Reiterated its confidence in the Director General and its support for all his efforts to resolve the outstanding issues relating to the full implementation of the Democratic People's Republic of Korea's Safeguards Agreement with the Agency;

(b) Expressed its concern that the contacts between the Agency and the Democratic People's Republic of Korea since the Board had last discussed the matter (in June) had not resulted in progress;

(c) Expected that consultations between the Democratic People's Republic of Korea and the secretariat would continue soon in Vienna, and that positive results would be reached through constructive dialogue;

(d) Reiterated that it was essential and urgent that the Democratic People's Republic of Korea enable the Agency to take the necessary measures to ensure continuity of verification activities in compliance with the Safeguards Agreement;

(e) Decided to remain seized of the matter and requested the Director General to keep it informed of any important developments.

The Board subsequently adopted (by 29 votes in favour to none against and 5 abstentions), a draft resolution (see attachment I), which inter alia requested "that an item entitled 'Implementation of the agreement between the Agency and the Democratic People's Republic of Korea (DPRK) for the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons (NPT)' be placed on the agenda for the thirty-seventh regular session of the Conference and that the requisite time limits be waived so that the matter can be taken up at that session."

11. Following the adoption of the Board of Governor's resolution, the Director General received a telex dated 25 September from the Democratic People's Republic of Korea's Minister for Atomic Energy, in which the Minister "regretted very much to note that the meeting of the IAEA Board of Governors adopted a 'resolution' to refer our nuclear issue to the upcoming IAEA General Conference". The Minister said that the adoption by the Board of Governors of "this unjust 'resolution' ... is another unjustifiable action on the part of the Agency secretariat that has purposely identified itself with the Western forces in their ill-intended political conspiracy to ignore the Democratic People's Republic of Korea's sincere efforts toward a resolution of the nuclear issue through dialogue and consultation and to muster up international pressure to strangle the Democratic People's Republic of Korea". The Minister "resolutely rejected the unjust 'resolution' ... as a move violating the Democratic People's Republic of Korea's sovereign rights". As its adoption coincided with the ongoing process of Democratic People's Republic of Korea-United States talks "opening positive prospects of a resolution of the nuclear issue" and also with the Democratic People's Republic of Korea-IAEA consultation meeting scheduled for early October, it could not be construed other than as a measure "designed to block any further progress" and a declaration on the part of the Agency secretariat ... "to press forward with strong-arm action and pressure, not consultation". The Minister added that the nature of the Democratic People's Republic of Korea nuclear issue was political and military rather than technical and could be resolved only through the Democratic People's Republic of Korea-United States talks. It was in that context that the Democratic People's Republic of Korea had suspended the effectuation of its withdrawal from the Non-Proliferation Treaty. Losing sight of the essentially political nature of the Democratic People's Republic of Korea nuclear issue would exacerbate rather than ameliorate the situation, as should have been clear already. In the

current situation the Agency secretariat "must bear its due responsibility for the grave consequences it has brought about, consequences that make it impossible for the next round of Democratic People's Republic of Korea-IAEA consultation scheduled to be held in Vienna to take place". The Minister's telex further informed the Director General that, "in case the forthcoming IAEA General Conference takes actions again of imposing pressure on the Democratic People's Republic of Korea, we would be compelled to reconsider the matter related to the maintenance and replacement of the Agency's safeguards surveillance equipment". Concluding, Mr. Choi said "the misconduct on the part of the agency secretariat" attested to the fact that it was used "as a political tool in strangling other countries and interfering in their internal affairs".

12. On 1 October, the thirty-seventh regular session of the IAEA General Conference considered its agenda item on the "Implementation of the agreement between the Agency and the Democratic People's Republic of Korea for the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons". In his statement to the General Conference, the Director General explained that the most important problem encountered over safeguards implementation in the Democratic People's Republic of Korea was the inconsistency between the Democratic People's Republic of Korea's initial report of its nuclear material subject to safeguards and the Agency's findings. For as long as the inconsistency was not resolved by credible explanations through additional information and visits to additional locations, the Agency would not be able to exclude the possibility that nuclear material in the Democratic People's Republic of Korea had been diverted. A Government which had stated its commitment to non-proliferation and was being questioned by the Agency about the completeness of its declaration should have every incentive to clarify the matter promptly. Full nuclear transparency created confidence and comprehensive IAEA safeguards were a means of achieving transparency. The results of verification activities performed under a comprehensive safeguards agreement could neither be adequate nor create confidence unless a State cooperated effectively over safeguards implementation. In the case of the Democratic People's Republic of Korea, its readiness to implement its Safeguards Agreement had diminished rather than increased. Previously, there had been no objection raised to ad hoc and routine inspections. Now however, the Democratic People's Republic of Korea was ready to accept only limited safeguards activities related mainly to maintenance. The area of non-compliance with the Safeguards Agreement was therefore widening.

13. The Director General said that earlier uncertainty had centred on the possible existence of non-declared nuclear material in the Democratic People's Republic of Korea. Now, only the implementation of systematic, effective and timely safeguards could provide the requisite assurance also about the exclusively peaceful use of the Democratic People's Republic of Korea's declared nuclear material and facilities. The Agency was ready to provide inspection whenever the Democratic People's Republic of Korea was ready to accept it. The secretariat was also ready, at any time, to consult with the Democratic People's Republic of Korea about ways to resolve the inconsistencies discovered. Although the Democratic People's Republic of Korea had resented the insistence with which the Agency had followed up that matter, it should be clear to all States that the Agency needed to follow up fully and diligently any discrepancies that came to light during safeguards implementation. That was

essential if confidence in the Agency and in its safeguards system was to be maintained.

14. The General Conference subsequently adopted (by 72 votes in favour, to 2 against and 11 abstentions) a resolution (see attachment II) which, inter alia, "expresses its grave concern that the Democratic People's Republic of Korea has failed to discharge its safeguards obligations" and "urges the Democratic People's Republic of Korea to cooperate immediately with the Agency in the full implementation of the safeguards agreement".

Attachment I

Agreement between the Agency and the Democratic People's Republic of Korea for the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons (INFCIRC/403)

Resolution adopted by the Board on 23 September 1993

The Board of Governors,

(a) Recalling its resolution GOV/2636 of 25 February 1993, resolution GOV/2639 of 18 March 1993 and resolution GOV/2645 of 1 April 1993,

(b) Recalling also resolution 825 (1993) adopted by the Security Council of the United Nations on 11 May 1993; and

(c) Deeply concerned that essential elements of these resolutions remain to be implemented;

1. Decides that the situation described in the report of the Director General (GOV/2687) and in his statement to the Board at the present session pursuant to the request made by the Board on 11 June 1993 is an important and urgent matter, and requests the Director General to keep the Board informed of all significant new developments relating to contacts and consultations with the Democratic People's Republic of Korea;

2. Requests further, in accordance with Rule 15 of the Rules of Procedures of the General Conference, that an item entitled "Implementation of the agreement between the Agency and the Democratic People's Republic of Korea (DPRK) for the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons (NPT)" be placed on the agenda for the thirty-seventh regular session of the Conference and that the requisite time limits be waived so that the matter can be taken up at that session; and

3. Asks the Director General to transmit his report and the records of the Board's discussion on this item at the present session to the General Conference.

Attachment II

Implementation of the agreement between the Agency and the Democratic People's Republic of Korea for the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons

Draft resolution submitted by Argentina, Australia, Austria, Bulgaria, Belgium, Canada, Colombia, Costa Rica, the Czech Republic, Denmark, Ecuador, Finland, France, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Israel, Italy, Japan, Kuwait, Liechtenstein, Luxembourg, the Netherlands, New Zealand, Nicaragua, Norway, Poland, Portugal, the Republic of Korea, Romania, the Russian Federation, the Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, the United Kingdom of Great Britain and Northern Ireland, the United States of America

The General Conference,

(a) Recalling the Board of Governors' resolutions GOV/2636 of 25 February 1993, GOV/2639 of 18 March 1993, GOV/2645 of 1 April 1993 and GOV/2692 of 23 September 1993,

(b) Noting the Director General's report contained in document GC(XXXVII)/1084 and the contents of document GC(XXXVII)/1084/Add.1,

(c) Recalling also resolution 825 (1993) adopted by the Security Council of the United Nations on 11 May 1993, which - inter alia - requested the Director General to report on this matter to the Security Council, and

(d) Deeply concerned that essential elements of these resolutions remain to be implemented,

1. Strongly endorses the actions taken so far in this regard by the Board of Governors and commends the Director General and the Secretariat for their impartial efforts to implement the safeguards agreement (INFCIRC/403) still in force between the Agency and the Democratic People's Republic of Korea (DPRK);

2. Expresses its grave concern that the DPRK has failed to discharge its safeguards obligations and has recently widened the area of non-compliance by not accepting scheduled Agency ad hoc and routine inspections as required by its safeguards agreement with the Agency;

3. Urges the DPRK to cooperate immediately with the Agency in the full implementation of the safeguards agreement; and

4. Decides to include in the agenda for its thirty-eighth regular session an item entitled "Implementation of the agreement between the Agency and the Democratic People's Republic of Korea for the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons".